

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

JASON DAVID THOMAS  
VERSUS  
SHELL OIL COMPANY

CIVIL ACTION  
NO. 10-722-JJB-SCR

**RULING ON MOTION TO SUBSTITUTE PARTY**

Before the court is the defendant's Unopposed Motion to Substitute Proper Party Defendant in Place of Shell Oil Company. Record document number 4. Although the motion is not opposed, it cannot be granted.

Defendant Shell Oil Company removed this case from state court asserting subject matter jurisdiction under 28 U.S.C. § 1332, diversity of citizenship. Defendant to seeks to substitute Shell Exploration & Production Company as the correct defendant.

When jurisdiction depends on citizenship, the citizenship of each party must be distinctly and affirmatively alleged in accordance with § 1332(a) and (c). *Stafford v. Mobil Oil Corp.*, 945 F.2d 803, 804 (5th Cir. 1991), *citing*, *McGovern v. American Airlines, Inc.*, 511 F.2d 653, 654 (5th Cir. 1975).<sup>1</sup>

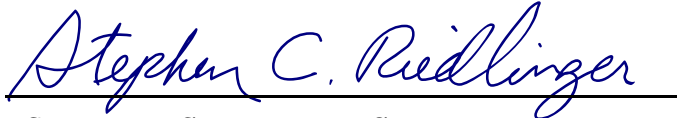
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<sup>1</sup> Under § 1332(c)(1) a corporation is deemed to be a citizen of any state in which it is incorporated, and of the state in which it has its principal place of business. For purposes of diversity, the citizenship of a partnership and a limited liability company is determined by considering the citizenship of all its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008); *Carden v. Arkoma Associates*, 494 U.S. 185, 110 S.Ct. 1015, 1021 (1990).

Defendant's motion does not allege the citizenship of Shell Exploration & Production Company. While it seem unlikely that Shell Exploration & Production Company would be a citizen of the State of Mississippi, as is the plaintiff, the better course is for the defendant to affirmatively allege the citizenship Shell Exploration & Production Company.

Accordingly, the defendant's Unopposed Motion to Substitute Proper Party Defendant in Place of Shell Oil Company is denied, without prejudice to the defendant filing a motion to substitute which properly alleges the citizenship of Shell Exploration & Production Company.<sup>2</sup>

Baton Rouge, Louisiana, November 8, 2010.

A handwritten signature in blue ink that reads "Stephen C. Riedlinger". The signature is written in a cursive style and is positioned above a horizontal line.

STEPHEN C. RIEDLINGER  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> Because the substitution would be unopposed, if it is allowed it will also be a Rule 41(a)(2), Fed.R.Civ.P., dismissal of defendant Shell Oil Company.